

Matrimonial Suit No. 1716 of 2026

Present : Rajesh Chakraborty (J.O. Code : WB00764)
ADJ, 1st Court, Alipore, South 24-Parganas

Order No. 02 dated 29.07.2026

Today is fixed for appearance of the petitioners before this court.

This is an application filed jointly by the petitioners praying for waiver of the statutory cooling-off period of six months in a proceeding for divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955.

The materials on record disclose that the marriage between the parties was solemnized on 27.11.2005 as per Hindu Rites and Customs and thereafter due to differences in opinion dispute cropped up between them and they were living separately since 25.03.2014. There is no further chance of reconciliation to resume cohabitation of the parties and as such the parties have mutually agreed to dissolve their marriage by mutual consent. In pursuance of such settlement, the instant suit under Section 13B of the Hindu Marriage Act, 1955, has been instituted before this Court.

The joint application discloses that the parties have been living separately since 25.03.2014 at their respective places and that all efforts at reconciliation have failed. It is also stated that it is practically impossible of resumption of cohabitation.

This Court has carefully considered the pleadings, the mediation report, the affidavits affirmed by both the petitioners and the submissions advanced. The record reflects that the decision of the parties to seek dissolution of marriage by mutual consent is voluntary and informed, and that there is no allegation or material suggesting any coercion, undue influence or compulsion. The settlement arrived at during mediation appears to be comprehensive and reflective of a genuine resolution of matrimonial discord.

The statutory requirement of a cooling-off period in cases of mutual consent divorce is intended to afford the parties an opportunity for reflection and possible reconciliation. However, the Hon'ble Supreme Court, in *Amardeep Singh v. Harveen Kaur*, (2017) 8 SCC 746, has authoritatively held that the period prescribed is not mandatory but directory, and that the Family Court or the matrimonial court, as the case may be, has the discretion to waive the said period where the Court is satisfied that the marriage has irretrievably broken down, that the parties have genuinely settled their differences, and that there is no likelihood of reconciliation.

The Hon'ble Supreme Court in the said decision laid down, inter alia, that waiver may be granted where the statutory period of separation has already been completed, where all efforts at mediation or conciliation have failed, where the parties have genuinely settled their disputes, including issues of alimony, custody and other ancillary matters, and where waiting for the remaining period would only prolong the agony of the parties.

This Court also finds guidance from the observations of the Hon'ble Supreme Court in *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226, wherein it was emphasized that where the matrimonial bond has completely broken down and there is no possibility of revival of the marital relationship, the law should not compel the parties to continue in a relationship that has become merely a legal fiction, thereby causing further mental cruelty.

In the present case, the parties have been living separately for a considerable period, they have already undergone the process of mediation and have consciously chosen to dissolve their marriage by mutual consent. The affidavits filed by both the petitioners affirm their resolve and their understanding of the consequences of such dissolution. This Court is satisfied that there is no likelihood of any reconciliation between them and that prolonging the statutory waiting period would serve no meaningful purpose other than to extend their emotional and practical hardship.

The inherent powers of this Court under Section 151 of the Code of Civil Procedure are intended to secure the ends of justice and to prevent abuse of the process of Court. In the facts and circumstances of the present case, the exercise of such inherent power to waive the cooling-off period is warranted in order to give effect to the genuine and voluntary settlement arrived at between the parties and to bring quietus to their matrimonial dispute.

Accordingly, this Court is pleased to allow the joint application. The statutory cooling-off period of six months in the present proceeding for divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955, is hereby waived.

The matter is taken up for hearing forthwith in accordance with law.

Let this order be communicated to the parties and be kept with the record.

To **07.08.2026** for hearing.

D/C by me

Additional District Judge,
1st Court, Alipore

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